

DECISION



118841 / 11/11/82
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-206316

DATE: June 30, 1982

MATTER OF: Prosearch

DIGEST:

1. Where protester by letter and telephone calls to agency before proposal due date adequately conveyed without use of the word "protest" its dissatisfaction with evaluation scheme set out in solicitation and asked for corrective action, protest submitted to GAO within 10 working days of agency's receipt of initial proposals without having taken corrective action is timely under GAO Bid Protest Procedures.
2. Protest contending solicitation inadequately described evaluation weight to be given to cost in relation to technical merit is denied where request for proposals indicates that technical considerations would be of paramount importance; a precise numerical relationship need not be disclosed.

Prosearch protests any award under Request for proposals (RFP) No. 82-011 issued by the Department of Education and calling for proposals to operate a national clearinghouse for the dissemination of information to the handicapped community. Prosearch contends the solicitation is defective because it does not adequately describe the relative value to be given to cost and technical factors in the evaluation. We deny the protest.

The RFP states that award will be made to the offeror whose proposal represents the combination of technical merit and cost most favorable to the Government but that technical considerations will be of paramount importance. It specifically assigns percentage weights totaling 100 to four different technical factors but does not assign

any specific weight to cost. The agency contends the assignment of numerical weight to cost factors would be inappropriate since the solicitation contemplates a cost reimbursement contract and to do so may deter offerors from revealing all probable costs in an effort to obtain a more favorable cost score.

The agency first questions the timeliness of this protest since it was not received by our Office until February 4, 1982, after the closing date for receipt of initial proposals (January 29). However, the record indicates Prosearch, by letter of January 25 and by several telephone calls before the closing date, expressed its concern to the agency regarding its inability to determine the relationship of cost to technical factors and requested an extension of the proposal due date for time to submit its proposal after it received clarification. While the agency obviously did not regard the letter or the telephone calls as reflecting an intent to protest, we believe they should be so regarded.

While it would have been preferable for Prosearch to have used the word "protest", its failure to do so is not decisive. Pitney Bowes, Inc., B-200016, December 30, 1980, 80-2 CPD 448. The intent to protest may be conveyed by an expression of dissatisfaction and a request for corrective action. Applied Devices Corporation, B-203241, September 9, 1981, 81-2 CPD 207. In our view, Prosearch's January 25 letter, which included a list of citations to our decisions, adequately conveyed its dissatisfaction and its belief that the solicitation should be clarified with respect to the evaluation weights to be given to cost and technical considerations. Therefore, Prosearch's protest to our Office within 10 working days of receipt of proposals without the changes requested was timely under our Bid Protest Procedures, 4 C.F.R. § 21.2(a) and 21.2(b)(2) (1982).

With respect to the merit of Prosearch's protest, the general principle is that bidders are entitled to know whether a procurement is to be made to acquire a product or service at a fixed price, or that cost is secondary to technical merit, or that the two are equally important. See Iroquois Research Institute, 55 Comp. Gen. 787 (1976), 76-1 CPD 123. The agency's intent in this regard must be reflected in the evaluation scheme set out in the solicitation. David A. Clary, B-20 377, April 28, 1981, 81-1 CPD 326.

Here, the solicitation clearly indicates that technical considerations will be of paramount importance, and that costs will be of secondary importance. We think this fairly conveys to offerors that their proposals should be structured to give emphasis to technical merit and we therefore cannot agree with Prosearch's allegation that the RFP does not provide any statement describing the relationship between cost and technical factors for purposes of evaluation. While a precise numerical relationship between cost and technical considerations is not disclosed for this RFP, an RFP need not assign and disclose the numerical weights of each evaluation factor. Dynallectron Corporation, B-198679, August 11, 1981, 81-2 CPD 115. All that is required is a reasonable indication of relative importance; this RFP provides that.

The protest is denied.

Milton J. Arosan
for Comptroller General
of the United States